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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE RODOLFO MORENO ALBESTRAIN,
and
PEDRO CERNA ARIAS,

Defendants.

CASE NO. 2:21-CR-188-DJC

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

DATE: November 9, 2023

TIME: 9:00 a.m.

COURT: Hon. Daniel J. Calabretta

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendants, by and through their respective counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for status on November 9, 2023.

2. By this stipulation, defendants now move to continue the status conference until December 7, 2023, at 9:00 a.m., and to exclude time between November 9, 2023, and December 7, 2023, under Local Code T4.

3. The parties agree and stipulate, and request that the Court find the following:

a) The government has represented that the discovery associated with this case includes more than 650 pages of investigative reports and other documents, as well as numerous

1 audio and video recordings. All of this discovery has been either produced directly to counsel
2 and/or made available for inspection and copying.

3 b) Counsel for defendants desire additional time to review the discovery, conduct
4 factual investigation, evaluate the charges in this case and potential defenses and resolutions,
5 consult with their clients, and otherwise prepare for trial. In addition, new counsel for defendant
6 Cerna Arias, Jessica Walsh, recently took over the representation in this case on or about
7 September 25, 2023. ECF No. 49. New counsel for Cerna Arias requires additional time to
8 review the case, consult with Cerna Arias, and prepare for trial.

9 c) Counsel for defendants believe that failure to grant the above-requested
10 continuance would deny them the reasonable time necessary for effective preparation, taking into
11 account the exercise of due diligence.

12 d) The government does not object to the continuance.

13 e) Based on the above-stated findings, the ends of justice served by continuing the
14 case as requested outweigh the interest of the public and the defendant in a trial within the
15 original date prescribed by the Speedy Trial Act.

16 f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
17 et seq., within which trial must commence, the time period of November 9, 2023 to December 7,
18 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code
19 T4] because it results from a continuance granted by the Court at defendant's request on the basis
20 of the Court's finding that the ends of justice served by taking such action outweigh the best
21 interest of the public and the defendant in a speedy trial.

22 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
23 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
24 must commence.

25 IT IS SO STIPULATED.
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1 Dated: November 2, 2023

PHILLIP A. TALBERT
United States Attorney

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3 /s/ DAVID W. SPENCER
DAVID W. SPENCER
Assistant United States Attorney

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5 Dated: November 2, 2023

/s/ David D. Fischer
David D. Fischer
Counsel for Defendant
JOSE RODOLFO MORENO
ALBESTRAIN

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9 Dated: November 2, 2023

/s/ Jessica Walsh
Jessica Walsh
Counsel for Defendant
PEDRO CERNA ARIAS

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14 **FINDINGS AND ORDER**

15 IT IS SO FOUND AND ORDERED this 3rd day of November, 2023.

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17 /s/ Daniel J. Calabretta
THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE